

**§ 136-44.3A. Highway Maintenance Improvement Program.**

(a) Definitions. – The following definitions apply in this Article:

- (1) Cape seal treatment. – A chip seal treatment followed by a slurry seal treatment.
- (2) Chip seal treatment. – A type of pavement preservation treatment applied to existing asphalt pavement. The treatment involves spraying an asphalt emulsion onto the roadway, applying a layer of aggregate chips, and rolling the chips into the emulsion. This term includes single, double, and triple chip seal treatments.
- (3) Highway Maintenance Improvement Program. – The schedule of State highway maintenance projects required under G.S. 143B-350(f)(4a).
- (4) Highway Maintenance Improvement Program Needs Assessment. – A report of the amount of funds needed, the number of affected lane miles, and the percentage of the primary and secondary system roads that are rated to need a resurfacing or pavement preservation treatment within the Highway Maintenance Improvement Program's five-year time period but are not programmed due to funding constraints.
- (5) Microsurfacing treatment. – A type of pavement preservation treatment that involves mixing fine aggregate, asphalt emulsion, minerals, water, and a polymer additive, and applying the mixture to the roadway.
- (6) Pavement preservation treatment. – Includes full-width surface treatments used to extend or renew the pavement life.
- (7) Rehabilitation. – A contract resurfacing maintenance program that involves applying multiple layers of pavement that exceed two inches.
- (8) Resurfacing. – A contract resurfacing program that involves applying one layer that does not exceed two inches of pavement.
- (9) Slurry seal treatment. – A type of pavement preservation treatment that involves mixing fine aggregate, asphalt emulsion, minerals, and water, and applying the mixture to the roadway.

(b) Road Quality Improvement of Pavement Preservation Treatments. – It is the intent of the General Assembly that (i) the Department use asphalt pavement preservation treatments that are high-quality, long-lasting, and provide a smooth road surface and (ii) the Department increase its contractual use of pavement preservation treatments.

(c) **(Effective until January 1, 2020)** Highway Maintenance Improvement Program. – After the annual inspection of roads within the State highway system, each highway division shall determine and report to the Chief Engineer on the need for rehabilitation, resurfacing, or pavement preservation treatments. The Chief Engineer shall establish a five-year priority list for each highway division based on the Chief Engineer's estimate of need. In addition, the Chief Engineer shall establish a five-year improvement schedule, sorted by county, for rehabilitation, resurfacing, and pavement preservation treatment activities. The schedule shall be based on the amount of funds appropriated to the contract resurfacing program and the pavement preservation program in the fiscal year preceding the issuance of the Highway Maintenance Improvement Program for all five years of the Highway Maintenance Improvement Program. State funding for the Highway Maintenance Improvement Program shall be limited to funds appropriated from the State Highway Fund.

(c) **(Effective January 1, 2020)** Highway Maintenance Improvement Program. – After the annual inspection of roads within the State highway system, each highway division shall determine and report to the Chief Engineer on (i) the need for rehabilitation, resurfacing, or pavement preservation treatments, (ii) the need for bridge and general maintenance, and (iii) projected changes to the condition of pavement on primary and secondary roads for each year

over a five-year period. The Chief Engineer shall establish a five-year priority list for each highway division based on the Chief Engineer's estimate of need. In addition, the Chief Engineer shall establish a five-year improvement schedule, sorted by county, for rehabilitation, resurfacing, and pavement preservation treatment activities. The schedule shall be based on the amount of funds appropriated to the contract resurfacing program and the pavement preservation program in the fiscal year preceding the issuance of the Highway Maintenance Improvement Program for all five years of the Highway Maintenance Improvement Program. State funding for the Highway Maintenance Improvement Program shall be limited to funds appropriated from the State Highway Fund.

(d) Repealed by Session Laws 2015-241, s. 29.17C(b), effective July 1, 2015.

(d1) Restriction and Encumbrance Schedule. – Notwithstanding any other provision of law, funds appropriated for the contract maintenance resurfacing program may not be transferred to another account to be used for another purpose. Beginning in the 2015-2016 fiscal year, the Department of Transportation shall spend or encumber all funds appropriated for the contract maintenance resurfacing program by June 30 of the fiscal year in which the funds were appropriated.

(e) Single Chip Seal Treatment Prohibited on Access Routes. – Except as authorized in subsection (f) of this section, and unless used in combination with a slurry seal, microsurfacing, or resurfacing treatment, the Department shall not use single chip seal treatment on access routes for Surface Transportation Assistance Act Dimensioned Vehicles.

(f) Authorized Use of Single Chip Seal Treatment on Secondary Roads.

The Department may use single chip seal treatments on secondary roads only under any of the following conditions:

- (1) The secondary road has a daily traffic volume of less than 15,000 vehicles. Single chip treatments used under this subdivision shall be capped with a final riding surface of sand or material of equivalent size to fill voids to create a smooth riding surface.
- (2) The single chip seal treatment is used in combination with a slurry seal, microsurfacing, or resurfacing treatment.
- (3) The condition of the secondary road requires a rough surface to improve traction, such as a secondary road in a mountainous community or another area with low skid resistance.

(f1) Chip Seal Treatment Prohibited on Subdivision Streets. Unless used in combination with a fog seal, the Department shall not use chip seal treatment on subdivision streets.

(g) Report. – The Department shall submit the Highway Maintenance Improvement Program and Highway Maintenance Improvement Program Needs Assessment to the General Assembly by April 1 of each year. If the General Assembly is in session, the Department shall report to the House of Representatives Appropriations Subcommittee on Transportation, the Senate Appropriations Committee on Transportation, and the Fiscal Research Division. If the General Assembly is not in session, the Department shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division. (2014-100, s. 34.11(b); 2015-241, s. 29.17C(b); 2016-94, s. 35.23; 2017-57, ss. 34.11(a), (b).)